

REMARKS

Specification Amendments

The insertion of this Cross Reference to Related Applications at page 1, line 11, for correct indication of the priority chain is believed proper and should be entered. It is important that the claim to priority is correctly indicated. Applicants respectfully request that this amendment be entered.

The insertion of this Government funding statement, after the paragraph for Cross Reference to Related Applications, is required because of the funding support provided for this invention. Until recently, Applicants had not realized that they neglected to inform their Attorney of such funding. Applicants respectfully request that this amendment be entered.

Priority Claim

Applicants believe that they are entitled to the claim for priority from both United States Provisional Application 60/488,909, filed on July 21, 2003, and International Application PCT/US2004/023483, filed 21 July 2004, for the amended claims submitted 23 May 2005. With regard to the Examiner's remarks in the above-mentioned Report, the limitation in the claims that the nanoparticles be in "colloidal solution" is supported by the US Provisional Application 60/488,909 by the following: (a) the particle size stated on page 1, lines 11-16, of from 1 to 15 nanometers would produce a colloid; at lines 11-13 it states that this invention deals with nano-scale surfaces (and on page 2, lines 15-16, and Fig. 1 illustrates 1 to 100 nanometers) that nano-particles in the range of 1 to 10,000 nanometers were intended, which will form colloids; (b) the change in color of the solution upon gold being in solution at page 5, lines 7-12, both indicate that a colloid was intended by the teaching to be prepared and formed. When the dendrimer was added to the gold solution, the color changed again, page 5, lines 13-19, to indicate the formation of a new nano-particle of gold with the dendrimer. The Applicants believe that one of ordinary skill in the dendrimer and colloid art would understand that a nano-particle formed as a colloid in solution.

With regard to the Examiner's contention of support for the dendrimers with "phosphine and phosphine oxide" the terms on page 2, line 29 for "containing phosphorous atoms" and at page 2, line 5 for "phosphine-terminated alkyl hydrocarbons" imply that such compounds were believed to be equivalent for mercaptans. Thus all the amended claims from 23 May 2005 are believed supported by the earliest priority document.

The MRI use by its very nature requires a magnetic or paramagnetic metal ion be present as provided on page 3, line 21 of the Provisional Application. Thus the present use of iron in Claim 33 of the 23 May 2005 amendment is well within the knowledge of one skilled in the art from the disclosure of the US Provisional Application. The use of a gene gun is acknowledged as supported by the US Provisional at page 4, line 8. The use of heavy metals is a requirement for a gene gun to be effective and gold for that purpose is well known. Thus the use of the present gold nanoparticles with a dendrimer is believed supported as in Claim 34 of the 23 May 2005 amended claims.

Thus Applicants believe that the amended claims from 23 May 2005 are fully supported by the priority documents and respectfully request that the claims to priority be honored and instated.

Cited References

The main cited reference - Peng (US 2004/0101976, published May 27, 2004, filed May 13, 2002; based on US Provisional 60/290,541, filed May 14, 2001) - would be removed as a published reference if Applicants' priority date of 21 July 2003 is maintained. Although Peng is filed for priority prior to Applicants earliest date, Applicants believe that Peng is a published document on 27 May 2004, it should not issue to patent in light of US Patent 6,020,457.

The PCT Application at page 7, last sentence on the amended page, states that the phosphine entities may not quench the photoluminescence that is essential for bio labeling. This desired result is achieved and shown by Fig. 17 where (iii) is about 50% with sulfur and (i) and (ii) are 0% with phosphine dendrons of PAMAM and polyether types. These two illustrated dendrimer types show two different dendrimer structures for phosphine entities that both are effective. Thus it is reasonably expected

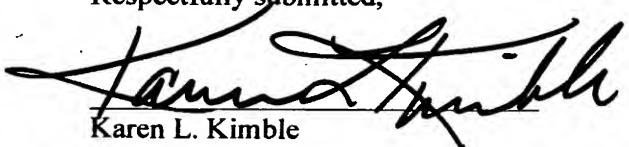
that other dendrimers of phosphines would also be effective. Fig. 17 illustrates Example 21 on page 20 of the PCT application. The importance of this non-quenching feature is discussed further on page 20, lines 14-15. In a later publication by the inventors [*Inorganica Chimica Acta* accepted 20 Nov 2005 and available on line at www.sciencedirect.com; copy enclosed] single site phosphine dendrimer entities are further discussed and shows that many phosphine dendrimer types will be useful and non-quenching. Peng has no teaching of this distinguishing feature that is important for this use or that the phosphine entities as he generally taught would display such results compared with sulfur analogues. Clearly the entities now claimed were not specifically taught for these structures or this use. Applicants believe that this non-quenching effect of phosphine dendrimer entities could not have been predicted and that inventive step over all cited references has been shown. Applicants earlier remarks with regard to other citations can be found with the Response dated 23 May 2005.

CONCLUSIONS

Applicants believe that they have overcome all cited references and respectfully request the allowance of all amended claims from 23 May 2005.

If the Examiner has any questions concerning this Amendment, please contact the undersigned. If there are still unresolved issues, Applicants respectfully request that the Examiner contact the undersigned to expedite allowance of the claims.

Respectfully submitted,



Karen L. Kimble
Registration No. 26,995
Phone: (989) 687-7401
Fax: (989) 687-7403
Email: techlaw@tm.net

3595 N. Sunset Way
Sanford, MI 48657

Enc. Tomalia and Huang, *Inorganica Chimica Acta* accepted 20 Nov 2005 and available on line at www.sciencedirect.com